

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

AUTHENTICOM, INC.,

Plaintiffs.

v.

Case No. 17-cv-318-JDP

CDK GLOBAL, LLC and THE REYNOLDS AND
REYNOLDS, COMPANY.

Defendants.

DECLARATION OF MICHAEL KORP

I, Michael Korp, declare as follows:

1. I am the director of Open Recalls, which is an application provider that helps dealerships locate and notify car owners with open safety recalls. I also am the director of operations for Ghaben Auto Group, which has five automotive dealerships in the Chicago area. In both the application provider and dealership worlds, CDK Global, LLC ("CDK") and The Reynolds and Reynolds Company ("Reynolds") have caused significant and ongoing harm to my businesses.

I. Open Recalls:

2. I founded Open Recalls, along with my partners, in June 2014. According to annual research from CARFAX.com, over 63 million vehicles on the road today have open safety recalls. That's about one out of every four vehicles in the United States, which is an

astounding 34% higher than last year's total. Family oriented vehicles – minivans and SUVs – are the most likely to have recalls that have not been fixed. I thought we could help raise recall completion rates, and so we founded Open Recalls (based in Chicago, an area that Carfax reports has roughly 1.6 million vehicles with open recalls).

3. Car owners driving automobiles with open, unrepaired recalls is a significant public safety issue. The National Highway Transportation Safety Administration recently launched a year-long digital advertising campaign themed “Safe Cars Save Lives” to urge better consumer response to recalls. Car owners can risk their lives when they drive with open safety recalls.

4. Between June 2014 and March 2015, my company Open Recalls made real progress in addressing this issue. Specifically, on behalf of our car dealership customers, we worked with data aggregators in order to find and contact car owners with open recalls – using direct mail campaigns, email, and text messaging. We initially flourished. Within less than a year, as of the spring of 2015, we grew to nine employees servicing approximately 30 dealerships with approximately 15 more dealerships under contract.

5. For these dealerships, we had a lot of early success in finding car owners with open recalls. In March 2015, we contacted at least 40,000 owners with open recalls, and at least 2,000 of those owners had their car repaired at a dealership that month. This was good for

dealerships, because they make money servicing recalls and can develop a long-term service relationship with the customer. It was also good for automobile owners, because they were no longer driving a vehicle with a potentially dangerous unresolved safety issue.

6. Since its inception, Open Recalls has used Authenticom to pull data at all of its dealerships. In particular, Authenticom pulls current and historical data for Open Recalls at about 40 dealerships. Authenticom charges my company a \$200 to \$300 setup fee and \$50 to \$65 a month per dealer – which I consider a reasonable and fair fee.

7. I have never had any problems or concerns with Authenticom's services. It is secure, professional, and responsive to my needs. In particular, Authenticom takes data from an array of different DMS providers and puts it in the format I need. When Authenticom delivers the data to Open Recalls, it is consistent across the board.

8. In March 2015, however, Reynolds began blocking Open Recalls' ability to get the necessary dealer data. Overnight, Reynolds cut off Open Recalls' access to about half of my dealers and a number of other dealers that we had under contract to become clients. These actions crippled our business. Without access to dealer data, we could no longer monitor what cars with open recalls were being serviced, nor could we bill dealers for our services or sign up new dealerships.

9. With Reynolds' blocking tactics, Open Recalls' revenues went from more than \$120,000 in March 2015 to virtually no revenues for the next five months. It was a business catastrophe.

10. In late 2015, Open Recalls' business was salvaged – albeit in a much weakened state – when The Tribune Company (which has an automotive division) entered into a joint venture with my business and took over sales. Around the same time, Authenticom continually called dealers to reenable the dealer-provided login credentials that Reynolds had blocked, so that Open Recalls could get some access to dealer data (although that access is subject to constant interruptions and blocking).

11. In 2016, CDK began blocking our access to dealers. If anything, CDK was more technologically advanced in its blocking capabilities and more draconian in its approach than Reynolds, threatening dealers flat-out that they were violating their DMS contract by having Authenticom pull their data for us. Faced with this threat, we lost many of our CDK customers.

12. Open Recalls considered getting data integration services directly through CDK and Reynolds and their respective “certification” programs. But the CDK and Reynolds certification programs are cost prohibitive, with unaffordable upfront initiation fees and monthly charges many, many times higher than Authenticom's.

13. Several of our dealerships use DMS providers other than CDK or Reynolds.

Authenticom pulls dealer data for us from those dealerships, as well. We have experienced no blocking or service interruptions whatsoever from DMS providers other than CDK or Reynolds.

14. Today, Open Recalls services roughly 40 dealerships. We still get dealer data through Authenticom, which manages as best it can with workarounds to the daily blocking and password-disabling of CDK and Reynolds.

15. If CDK and Reynolds did not block our access to crucial dealer data, we would have a lot more dealer customers than we do today. Our nationwide expansion plans have been thwarted, because we have not been able to achieve consistent revenue levels due to CDK and Reynolds's blocking tactics. We also have cut back on service levels. For example, before the blocking, we used direct mail, email, text messaging and phone to reach car owners with open recalls, and we were beginning to expand into "display" advertising on social media feeds like Facebook. Now, however, because of the significant drop in revenue and profitability that resulted from CDK and Reynolds's blocking efforts, we cannot afford these other, more effective outreach techniques and do only direct mail. When I go to bed at night, I do not know if we are going to be in business the next day. With that kind of uncertainty, we cannot hire people and grow the business.

16. The blocking of Open Recalls has harmed public safety. Recalls are typically tracked for only 18 months, and many vehicle owners do not keep their address records current

with their state DMV. Open Recalls has focused on hard-to-reach customers, including older recall campaigns (going as far back as 15 years) and on finding vehicle owners who have a garaging address different than where their vehicle is registered with the state. Many owners we reach have old vehicles with multiple safety recalls, and they are often shocked to find out their vehicles were recalled and have unsafe parts. CDK and Reynolds's blocking of our application has prevented and impeded us from performing those services, which harms the public..

17. If Authenticom goes out of business, Open Recalls will go out of business too. There is no way we could afford CDK and Reynolds's certification fees.

II. Ghaben Auto Group Dealerships:

18. In addition to Open Recalls, I am a director of the Ghaben Auto Group, which was founded in 2004 and has five automotive dealerships in the Chicago area. We have a Mazda dealership and three dealerships for luxury pre-owned cars that are CDK customers. We are a medium-sized dealership group with around 100 employees.

19. Our dealerships have purchased DMS services from CDK since 2004. Each dealership enters into a five-year contract with CDK, with the exception of our newest dealership (which was folded into the existing contract).

20. It is very difficult and time consuming to switch DMS providers. For example, a few years ago, we changed from one CDK product to another, and it was a disaster. We lost data in the transition and faced a lot of lost productivity and lost profits – and that was just switching within the same DMS company, not switching DMS providers altogether.

21. My biggest problem with CDK is that they seem to believe the dealers' data is their data. That is wrong. The data we input into the DMS is dealer data about every critical aspect of the dealer's business.

22. When we entered into our long-term DMS contract with CDK, we had no idea CDK would take this position and would begin disabling and blocking our ability to provide vendors and other third parties of our choosing with access to our own data.

23. Our contract with CDK expires in 30 months. I tried to get out of it and switch providers, but I cannot because CDK would impose a cost-prohibitive buyout penalty of well over \$200,000.

24. At our four dealerships using CDK, we pay around \$22,000 a month to CDK for DMS services. Every year, the DMS charges go up.

25. Our dealerships use about a dozen third-party application providers that help us sell and service cars. Several of our vendors use Authenticom to pull the dealerships data. I have expressly and specifically authorized Authenticom to perform this service. I have never experienced any problems with Authenticom's services, and I am confident that Authenticom's services sufficiently maintain the security of my dealerships' data.

26. In 2016, CDK started blocking the login credentials of our vendors that use Authenticom and forced other vendors into their 3PA program. This blocking hurt our business

significantly, driving down both gross profit margins and net profit. These vendors have far superior software applications than CDK offers or does not provide. These software applications are vital to our dealerships' daily operations.

27. One of our software application providers provides very useful data analytics software. It allows us to collaborate with ease, and to see all of our key performance indicators for our most important data for every department. It has an advanced algorithm that can predict with high accuracy how many cars we will sell in any given month. This application provider uses Authenticom to pull my data, but it is being blocked by CDK. This vendor has discussed becoming certified with CDK (and paying the much higher integration fees). But if it did that, the monthly rate it charges my dealerships would go up substantially. The constant blocking also causes lost efficiency and lost profits.

28. Another vendor that we use for our web platform also uses Authenticom to pull our data. This application provider runs our website and provides data analytics using transactional data. CDK's blocking of them was so persistent, I stopped trying to reset the credentials about four months ago. As a result, the provider no longer provides transactional data analytics to our dealerships. Our Mazda store signed with a different vendor, and the quality of the services our other dealerships receive from this vendor has been degraded from an analytics standpoint.

29. We use a "Financing and Insurance" application provider, which is now directly certified with CDK. This vendor paid \$120,000 for CDK integration and pays \$270 a month per dealership. Prior to being certified, this vendor, too, was the subject of blocking by CDK, causing lost productivity and profits.

30. We use a vehicle management system application provider that was forced to move to CDK's 3PA program. Since this vendor became CDK certified on April 1, 2017, it caused a disaster for us. How CDK can claim this vendor needs to join the 3PA program for data security reasons is beyond me. This vendor only needs limited data, including vehicle identification numbers, miles and dealer cost (and only for vehicles we have in stock) in order to put our cars on websites like Cars.com, Autotrader.com, and our own website. The vendor's other function is to appraise cars for us, by tracking historical sales across the United States; the vendors alerts us to "buy," "sell," or "proceed with caution" based on current market conditions. We rely on this application hundreds of times a day. Thousands of our customers interact with our vehicles every day through this software. As I stated earlier, moving from one CDK product to another caused significant disruption to my business. It is doing the same for this vendor, which services thousands of dealers across the country, The hold times for a customer service representative have gone from nil to over an hour at times the last six weeks. This vendor's

conversion to CDK's 3PA program has cost us lost efficiency, blind decision making, and lost profits.

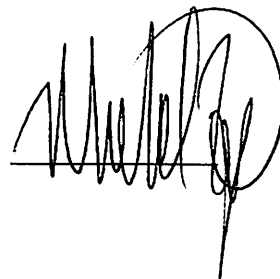
31. For other application providers, they are simply no longer able to pull my data, and I have stopped using them altogether. For still others, I have simply chosen not to hire them if they do not have direct certification with CDK, even if I believe their services would help optimize my business. It is a waste of time to use a vendor if CDK is just going to block them, and many of the vendors would not be an attractive service if certified by CDK, because the data access fees CDK charges are so high to make the passed-through fees cost-prohibitive.

32. If Authenticom goes out of business, my dealerships would suffer from higher software costs and less useful applications.

I declare that the foregoing is true and correct to the best of my knowledge.

Executed in Chicago, Illinois, this 12th day of May, 2017.

By:

A handwritten signature in black ink, consisting of a series of loops and a large circular flourish at the end, written over a horizontal line.